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REMARKS

In the non-final Office Action mailed 25 October 2004 pending claims 36-41 were rejected. In this Reply, no claims are canceled, claims 39 and 40 are herein amended and no new claims are presented. Thus, claims 36-41 are pending examination on the merits. For the convenience of the Examiner, claims 36-41 are set forth hereinabove.

Applicant respectfully request entry and favorable consideration of the amendments and remarks contained herein.

Rejections Under 35 U.S.C. §112

Claim 39 and 40 were objected to (for use of non-obvious acronyms) and claim 40 was rejected to under 35 U.S.C. §112, second paragraph (allegedly for use of the term "crucial").

Applicant has spelled-out the acronyms in claims 39 and 40 and respectfully asserts that the term "crucial" does not appear in any of the claims under examination. Accordingly, the objections and rejection have been rendered moot and ought to be withdrawn.

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Rejections Under 35 U.S.C. §103(a)

In the Office Action, claims 36-39 and 41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,312,378 to Bardy (Bardy) in view of an article by D. Comer (1995). Claim 40 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Bardy in view of D. Comer (1995) in further view of U.S. Pat. No. 4,750,495 to Moore et al. (Moore).

On the basis of the declaration submitted herewith the Bardy reference stands antedated and since the article by D. Comer requires combination with Bardy (which no longer can be utilized as competent prior art), the rejection of claims 36-39 and 41 cannot stand, and since Moore also requires combination with Bardy the rejection of claim 40 cannot stand and also should properly be withdrawn.

In support of the declaration filed pursuant to 37 CFR 1.131 on behalf of Applicant to nullify the applied prior art vis-à-vis the pending claims. Attached hereto for entry are photocopies of the original pages (faxed to Medtronic, Inc.) from the Bakken Research Center (BRC) laboratory by the inventor. Also presented herewith are the received fax pages (with time stamp) and a one-page memorandum from the BRC (Medtronic, Inc.) Legal Counsel acknowledging receipt of the inventor's disclosure (and assigning it Medtronic Reference P-8027).

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Applicants respectfully assert that upon entry of the photocopied records that the prior art rejections formulated in the non-final outstanding Office Action stand traversed and the pending claims should proceed to timely issuance as U.S. Letters Patent.

CONCLUSION

Applicants respectfully suggest that all presently pending claims 36-41 of the instant application are now in condition for allowance. Applicants respectfully request reconsideration and prompt allowance of said claims. Please charge any additional fees or credit any overpayment to deposit account number 13-2546.

The Examiner is invited to telephone the below-signed attorney to discuss this application.

Respectfully submitted,

Date: 24 Feb. 05


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